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In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 71-1669

JAMES E. GUSTAFSON,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

BRIEF FOR PETITIONER

OPINIONS BELOW

The opinion of the Supreme Court of Florida which the petitioner prays that this Court review is reported at 258 So.2d 1 (Fla.1972) and reproduced in the Appendix to the Petition (Petition App. 1a-4a). The decision of the District Court of Appeal of Florida, Fourth District, which was quashed by the Florida Supreme Court's opinion is reported at 243 So.2d 615 (Fla.App.1971) (Petition App. 5a-15a).

JURISDICTION

The judgment of the District Court of Appeal of Florida, Fourth District, was rendered and entered on February 8, 1971 (Petition App. 5a). The judgment and opinion of the Florida Supreme Court which the petitioner seeks to have reviewed was entered on January 26, 1972 (Petition App. 1a-4a). The petition for writ of certiorari was filed in this Court on June 22, 1972 and was granted on March 19, 1973.

The jurisdiction of this Court is invoked under Section 1257(3), Title 28, U.S.C.A.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the Constitution of the United States provides, in pertinent part:

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated . . ."

Section 12 of the Declaration of Rights of the Constitution of the State of Florida (1968) provides, in part:

> "§12. *Searches and seizures*—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures . . . shall not be violated. . . ."

Florida Statutes (1967), Section 322.15 provides:

"822.15 License to be carried and exhibited on demand.—Every licensee shall have his operator's or chauffeur's license in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a patrol officer, justice of the peace, a peace officer, or a field deputy or inspector of the department. However, no person charged with violating this section shall be convicted if he produces in court an operator's or chauffeur's license theretofore issued to him and valid at the time of his arrest.

QUESTIONS PRESENTED

In the petition for writ of certiorari filed in this case, the following reasons were urged in support of granting the writ:

THE FOURTH AMENDMENT AND THIS COURT'S DECISIONS IN *TERRY V. OHIO*, 392 U.S. 1 (1968) AND *SIBRON V. NEW YORK*, 392 U.S. 40 (1968) PROHIBIT THE CONDUCTION OF AN EXTENSIVE SEARCH OF A MOTORIST'S PERSON AND CLOTHING BY A POLICE OFFICER WHO HAS STOPPED THE MOTORIST ON GROUNDS OF MERE SUSPICION OR CURIOSITY AND WHO HAS LEARNED IN RESPONSE TO ROUTINE QUESTIONING THAT THE MOTORIST HAS VIOLATED A MINOR TRAFFIC REGULATION IN NOT HAVING HIS MOTOR VEHICLE OPERATOR'S LICENSE IN POSSESSION WHILE DRIVING.

Implicit in this contention, the following basic questions are presented for the Court's determination:

1. Whether the Fourth Amendment prohibits as unreasonable in purpose and scope the extensive evidence search of a person arrested for a minor traffic violation, which offense has no evidence related to it.

2. Whether the Fourth Amendment prohibits as unreasonable in purpose and scope the extensive evidence search of a citizen taken into custody for the violation of a minor traffic offense.

STATEMENT OF THE CASE

The petitioner and a companion were returning to their college dormitory in the early morning hours of Sunday, January 12, 1969, after having taken their evening dates home. While the petitioner was driving his automobile through the city of Eau Gallie, Florida, a municipal police officer on routine patrol observed the vehicle to weave slightly into another traffic lane. The petitioner had not violated any traffic or speed laws (App. 16, 55, 57, 63), his driving presented no hazard to other motorists, people on the roadway, or property adjacent to the road (App. 35-36, 55), and his driving activity was not such as to constitute, in the officer's opinion, an offense (App. 17, 21-22, 26-27, 58-59, 62-63, 67). The officer stopped the vehicle to "check it out" but admitted that he would not have detained the automobile had he known the occupants (App. 19-20).

After stopping the vehicle, the officer asked the petitioner for his driver's license. The petitioner informed the officer that he was a student and had left his driver's license in his dormitory room in the neighboring city of Melbourne, Florida. The petitioner was then arrested for failure to have his vehicle operator's license in his possession.[1] The officer then undertook an extensive search of the petitioner's person and clothing and determined to place him in the patrol car to be taken to the police station. The petitioner had been orderly and cooperative, he did not appear to the officer to be frightened, nervous or upset (App. 7-10). The petitioner's passenger, who had not been arrested for any offense, was also thoroughly searched and subsequently taken to the police station (App. 38-39). The officer testified that the passenger, who had not been charged with any offense, would have been arrested for "disorderly conduct" and would have been forcibly placed in the patrol car if the passenger had not acquiesced in or complied with the officer's demands (App. 46-47).

During the police officer's search, a cigarette package was removed from the petitioner's coat pocket and the officer proceeded to examine its contents. This examination revealed the existence of several home-made cigarettes.

The petitioner was ultimately charged with the possession of three marijuana cigarettes and stood trial on this accusation.

Through timely motions to suppress, the petitioner challenged the legality of his arrest and the search and seizure of his tangible evidence which had formed the basis

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[1]Fla. Stat. §322.115 (1967).

of the prosecution. His objections and motions were denied and he was found guilty of the possession charge. The trial judge entered an order of probation withholding adjudication of guilt and an appeal was taken.

The petitioner sought review of the trial court rulings in the District Court of Appeal of Florida, Fourth District. The District Court of Appeal held the search to be unreasonable under the circumstances since it was not related to the petitioner's arrest for a minor traffic charge and since it proceeded far beyond a mere custodial search limited to weapons or instrumentalities for escape. The order of probation was reversed and the case was remanded with directions to the trial court to discharge the petitioner from further prosecution on the charge. *Gustafson v. State*, 243 So.2d 615 (4th D.C.A.Fla.1971) (Petition App. 5a-15a).

The State of Florida petitioned the Supreme Court of Florida for a writ of certiorari. The Florida Supreme Court took jurisdiction of the cause and subsequently quashed the opinion of the District Court of Appeal. *State v. Gustafson*, 258 So.2d 1 (Fla.1972) (Petition App. 1a-4a).

The decision of the Florida Supreme Court branded the District Court's requirement that such searches be either related to the charge for which the arrest is made or limited to a search for weapons or instrumentalities for escape, to be an outright "reversal" of former Florida decisions, containing "reversionary" views contrary to an entire body of established law and a "radical departure" from established reasonable standards. The petitioner had contended that this Court's decisions in *Terry v. Ohio*, 392 U.S. 1 (1968) and *Sibron v. New York*, 392 U.S. 40 (1968) were clearly applicable to the search and seizure question

in this case. The Florida Supreme Court, however, failed to even cite *Terry* or *Sibron* in the course of its opinion.

The decision presented for review is predicated on the rationale that:

> "A reasonable suspicion (which was present here)[2] that the driver was intoxicated not only justified stopping the vehicle but also justified searching for intoxicants or drugs inasmuch as our statute makes the influence of either an offense . . ." (Petition App. 2a).

In the course of the same opinion, the Florida Supreme Court held that:

> "In the routine stopping of a motorist by an officer, as for a 'failure to yield right of way', etc., where a traffic citation may be issued, there does not arise any reason for a general search and none would be authorized . . ." (Petition App. 8a).

It is difficult to imagine how an officer's subjective determination to stop a motorist merely to "check him

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[2]Justice Dekle's finding of the presence of "this reasonable suspicion" can, unfortunately, only be supported by imagination or speculation since the Florida Supreme Court never had the benefit of the transcripts of testimony from the pretrial and trial proceedings or the record on appeal. The petitioner respectfully requests the Court to review Footnote 3 of his petition filed in this case in connection with the Florida Supreme Court's determination of this factual issue. It is tragic that a decision of such dynamic impact on fundamental Fourth Amendment protections can be predicated upon a factual determination by an appellate court which never had the benefit of the record.

out" would justify a full scale evidence search, yet provide no basis for such an extensive search if his reasons for stopping the vehicle rested on the fact that the motorist actually committed a traffic offense, i.e., "failure to yield right of way."

Following the announcement of this decision, the instant petition for writ of certiorari was filed in this Court on June 22, 1972, and granted on March 19, 1973.

SUMMARY OF ARGUMENT

Fourth Amendment protections cannot be diluted or diminished through semantic distinctions between the "stopping" of a citizen and his "arrest", or between a "frisk" and a "search" of his person. *Terry v. Ohio*, 392 U.S. 1 (1968). We submit that it cannot be validly argued that the citizen in any way loses the benefits and protections of the Fourth Amendment simply because he is operating a motor vehicle at the time of his initial encounter with governmental authority. The Fourth Amendment protects "people" rather than "places." *Katz v. United States*, 389 U.S. 347 (1967).

This case and the decision in *United States v. Robinson*, 471 F.2d 1082 (D.C.Cir.1972), cert. granted, 93 S.Ct. 1500 (1973) (No. 72-396, 1972 Term), present for the Court's determination, a significant opportunity to provide firm and objective guidelines on the application of the Fourth Amendment's demand for reasonableness in the most frequent area where the majority of our citizenry have their first encounter with law enforcement officials in an adversary posture. The situation we speak of is that

involving the arrest of a citizen for violation of a routine traffic ordinance or regulation.

In this brief, we concede the validity of the police officer's authority to:

(a) initially stop the petitioner's automobile;

(b) momentarily detain the petitioner;

(c) routinely request that the driver produce his operator's permit; and,

(d) assume custody of the petitioner and transport him to the station house for further inquiry upon learning that the motorist did not have his permit in his possession.

We make these concessions not for the sake of brevity or in avoidance of argument on these issues, but rather to provide the avenue for focusing the Court's attention to the fundamental question presented. We submit that the circumstances of this case require the establishment of Fourth Amendment principles of "reasonableness" in the activity of a police officer who determines to take a citizen into custody on the basis of a minor traffic offense. We wish to avoid confusing this issue with collateral questions of subjective or motivational factors that may have preceded the policeman's initial decisions.

We urge that these cases provide the basis for announcing workable standards to reach the goal of eliminating unconstitutional searches by placing "emphasis . . . on the objective relationship between the nature of the

offense and the nature (circumstances) of the search, rather than on the motivative cause of the arrest." *Amador-Gonzales v. United States*, 391 F.2d 308, 315 (5 Cir.1968).

The central issue in this case concerns the question of "reasonableness" of the police officer's activities in light of his decision to arrest and take the petitioner into custody. In the course of this brief we shall demonstrate that the extensive searching activity engaged in by the officer was violative of the Fourth Amendment because it was unreasonable both in purpose and in scope.

First, we contend that the Fourth Amendment prohibits as unreasonable in purpose and scope the extensive evidence search of a person arrested for a minor traffic violation, which offense has no evidence related to it. Since there are no fruits or instrumentalities to be found by the officer in connection with such an offense, there exists absolutely no valid or legitimate purpose to support a warrantless evidentiary search.

Secondly, we will show also that the Fourth Amendment is abridged by the police officer who engages in an extensive evidence search of a citizen taken into custody for the violation of a minor traffic offense. We submit that allowing the police officer to proceed with an extensive body search in such cases where there are no objective or articulable facts to indicate the officer is dealing with an armed or dangerous individual is to diminish the protections of the Fourth Amendment to motorists on Florida's highways to the extent that the constitutional protection exists in the abstract without meaning, vitality or enforcement.

ARGUMENT

THE FOURTH AMENDMENT AND THIS COURT'S DECISIONS IN *TERRY V. OHIO*, 392 U.S. 1 (1968) AND *SIBRON V. NEW YORK*, 392 U.S. 40 (1968) PROHIBIT THE CONDUCTING OF AN EXTENSIVE SEARCH OF A MOTORIST'S PERSON AND CLOTHING BY A POLICE OFFICER WHO HAS STOPPED THE MOTORIST ON GROUNDS OF MERE SUSPICION OR CURIOSITY AND WHO HAS LEARNED IN RESPONSE TO ROUTINE QUESTIONING THAT THE MOTORIST HAS VIOLATED A MINOR TRAFFIC REGULATION IN NOT HAVING HIS MOTOR VEHICLE OPERATOR'S LICENSE IN POSSESSION WHILE DRIVING.

The Florida Supreme Court's decision is grounded upon what that court, without the benefit of the record, determined to be a "reasonable suspicion . . . that the [petitioner] was intoxicated" (Petition App. 2a) which justified not only stopping the vehicle but also searching for intoxicants or drugs. That court adhered to the position often considered by other authorities as the "categorical approach" in authorizing the "incidental search that *reasonably* ensues after a legal arrest . . ." (Petition App. 4a). In failing to consider the applicable and objective Fourth Amendment principles relating to the reasonableness of the police officer's extensive searching activities under the circumstances presented in the instant case, the Florida Supreme Court handed down a decision which diminishes the Fourth Amendment protections available

to the millions of motorists traveling on Florida's highways to such an extent that police intrusions into their privacy need now be governed only by the "suspicion" standards applicable to border searches.[3]

The Florida decision is contrary to the views of all other authorities that have addressed themselves to the fundamental issues presented.[4] We submit that the decision must be reversed because the extensive intrusion into the petitioner's personal security and privacy could not be considered reasonable in either purpose or scope since there were no fruits or instrumentalities of the offense for which the petitioner was placed under arrest and the intrusion far exceeded any authority that may have existed for a protective pat-down or custodial frisk for the protection of the officer.

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[3]In using the term "motorists" we refer not only to vehicle operators but also their passengers as well since the other occupant in the petitioner's car was also thoroughly searched, even though he was not charged with any offense at all (App. 38-39). The officer additionally testified that the passenger would have been arrested for "disorderly conduct" and forcibly placed in the patrol car if he had not submitted to the officer's demands (App. 46-47).

[4]See, cases and authorities cited in Argument A., pp. 14-15, *infra*. Florida's lower appellate and trial courts are presently bound by the instant decision. Nevertheless, writers from two of the state's law schools have published articles on this case. Each of these notes questions the soundness of the reasoning and the grasp of the real issues presented for review by Florida's highest judicial body. See, Wills and Caruana, *Criminal Law and Procedure*, Tenth Survey of Florida Law, Part Two, 26 U.Mia.L.Rev. 289, 314 (1972); Comment, *Criminal Law: Personal Searches Incident to Traffic Arrests—No Nexus Necessary?*, 25 U.Fla.L.Rev. 239 (1972).

A.

THE FOURTH AMENDMENT PROHIBITS AS UNREASONABLE IN PURPOSE AND IN SCOPE THE EXTENSIVE EVIDENCE SEARCH OF A PERSON ARRESTED FOR A MINOR TRAFFIC VIOLATION, WHICH OFFENSE HAS NO EVIDENCE RELATED TO IT.

> . . . [T]he most basic constitutional rule in this area is that "searches conducted outside the judicial process without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment — subject only to a few specifically established and well delineated exceptions . . ." *Coolidge v. New Hampshire*, 403 U.S. at 454-455.

In the case of most routine traffic violations there are no fruits or instrumentalities which might be considered as evidence of the offense. Therefore, it cannot be validly argued that the exigencies of the situation surrounding the routine traffic offense requires any evidentiary search whatsoever. Simply stated, no legitimate purpose could be advanced through the conducting of an exploratory evidence search because such an intrusion would be patently unreasonable from its inception.

The fundamental principle recognizing the non-existence of evidence to be found in the case of a routine traffic arrest has been recognized and followed by virtually every appellate court in the country which has considered the issue. See *People v. Superior Court of Los Angeles County*

[*Simon*], 7 Cal.3d 186, 101 Cal.Reptr. 837, 496 P.2d 1205 (1972) (*en banc*); *People v. Watkins*, 19 Ill.2d 11, 166 N.E. 2d 433 (1960); *State v. Curtis*, 290 Minn. 429, 190 N.W.2d 681 (1971); *People v. Marsh*, 20 N.Y.2d 98, 281 N.Y.S.2d 789, 228 N.E.2d 783 (1967); *Lawson v. State*, 484 P.2d 1337 (Okl.Ct.Crim.App.1971); *Ricci v. State*, 506 P.2d 601 (Okl.Ct.Crim.App.1973); *Barnes v. State*, 25 Wis.2d 116, 130 N.W.2d 264 (1964); and the numerous authorities referred to in both *Amador-Gonzalez v. United States*, 391 F.2d 308, n.8 (5 Cir.1968) and *United States v. Robinson*, 471 F.2d 1082, n.39 (D.C.Cir.1972), cert. granted, 93 S.Ct. 1500 (1973) (No. 72-936, 1972 Term).

In the present case, after the officer determined that the petitioner had left his permit in his nearby dormitory room, he was not at liberty to initiate an extensive body search since the intrusion into the citizen's personal privacy and clothing could not possibly have led to evidence supporting the charge. This warrantless exploratory police activity was patently unreasonable and violative of the petitioner's right to personal security and privacy guaranteed by the Fourth Amendment.

B.

THE FOURTH AMENDMENT PROHIBITS AS UNREASONABLE IN PURPOSE AND SCOPE THE EXTENSIVE SEARCH OF A CITIZEN TAKEN INTO CUSTODY FOR THE VIOLATION OF A MINOR TRAFFIC OFFENSE.

In *Chimel v. California*, 395 U.S. 752 (1969) this Court retraced the historical background surrounding the

concept of warrantless searches "incident to lawful arrests". In reconsidering the correctness of dicta and express holdings in the previous cases of *Weeks v. United States*, 232 U.S. 383 (1914); *Agnello v. United States*, 269 U.S. 20 (1925); *Marron v. United States*, 275 U.S. 192 (1927); *Go-Bart Importing Co. v. United States*, 282 U.S. 344 (1931); *United States v. Lefkowitz*, 285 U.S. 452 (1932); *Harris v. United States*, 331 U.S. 145 (1947); *Trupiano v. United States*, 334 U.S. 699 (1948); and *United States v. Rabinowitz*, 339 U.S. 56 (1950), the Court relied upon Mr. Justice Frankfurter's dissent in *Rabinowitz* in rejecting non-objective or talismanic invocations of the term "reasonable" in and of itself as the measure of Fourth Amendment protection in such cases.

In *Chimel*, emphasis was placed upon the critical language of the Court's opinion of the previous Term in *Terry v. Ohio*, 392 U.S. 1 (1968) repeating that ". . . [t]he scope of [a] search must be 'strictly tied to and justified by' the circumstances which rendered its initiation permissible . . ." 395 U.S. at 762.

In the present case we have already conceded the authority to the police officer to temporarily detain and question the petitioner and the legality of his decision to take the petitioner into custody. In light of the facts and circumstances existing and known to the officer at the time these decisions were made, however, there existed absolutely no authority for undertaking a full scale exploratory body search. We submit that it is simply impossible for the State of Florida to ". . . point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant [such an] intrusion. . . ." *Terry v. Ohio*, 392 U.S. at 21.

The officer in the present case never exhibited any manifestations of fear for his personal safety in dealing with the petitioner or the other passenger in the automobile. The petitioner had been responsive and cooperative and did not appear to be frightened, nervous or upset (App. 7-10). His clothes were orderly, he demonstrated no difficulty in exiting the automobile and he had no trouble standing up (App. 8-9). The officer testified that the petitioner had not violated any traffic or speed laws (App. 16, 55, 57, 63), his driving presented no hazard to other motorists, people on the roadway, or property adjacent to the road (App. 35-36, 55), and his driving activity was not such as to constitute, in the officer's opinion, an offense (App. 17, 21-22, 26-27, 58-59, 62-63, 67). After stopping the automobile he did not detect an odor of alcohol on the petitioner's person, the petitioner did not stumble or weave and did not have a slurred manner about his speech (App. 58-59).

These factors when considered in light of the fact that the offense providing the basis for the arrest was trivial in nature[5] and that there was a total absence of any indication that the officer was dealing with an armed and dangerous individual strongly militate against a judicial pronouncement characterizing the full scale body search that ensued as being reasonable. Indeed, the fact that the passenger in the petitioner's vehicle was subjected to similar intrusions of his privacy, when he had not been ar-

[5]The charge of failing to have vehicle operator's permit in possession while driving is the most minor infraction of Florida's motor vehicle regulations. The legislation covering this charge in existence at the time the petitioner was arrested, Fla. Stat. §322.15 (1967) provided that a conviction could not even be secured if the accused later produced in court his operator's license if it was issued and valid at the time of the arrest. In the present case the original charge was eventually dismissed or nol-prossed in the city court when the petitioner produced his valid permit (App. 60).

rested or charged with any offense, clearly illustrates the patent unreasonableness of the officer's conduct.

Since the circumstances in the present case fail to indicate any basis for belief that the officer was contending with an armed and dangerous individual or that the petitioner's actions indicated reasonable grounds for suspecting other criminal activity aside from the minor traffic offense, the officer's physical intrusion into the citizen's privacy had to be limited to a protective or custodial pat-down frisk for weapons. The scope of the search in the instant case far exceeded these reasonable limitations.

The seizure of three marijuana cigarettes found after the officer had removed an ordinary cigarette container from the petitioner's inside coat pocket cannot be sustained as a protective measure on the part of the policeman. In this respect the decision of the Florida Supreme Court appears to stand alone in opposition to all of the other reported opinions of other courts which have considered this narrow issue. See *United States v. Robinson*, 471 F.2d 1082 (D.C. Cir.1972); *United States v. Del Toro*, 464 F.2d 520 (2 Cir. 1972); *United States v. Lindsey*, 451 F.2d 701 (3 Cir.1971); *United States v. Davis*, 441 F.2d 28 (9 Cir.1971); *Tinney v. Wilson*, 408 F.2d 912 (9 Cir.1969); *United States v. Lopez*, 328 F.Supp. 1077 (E.D.N.Y.1971); *United States v. Gonzalez*, 391 F.Supp. 563 (D.Conn.1970); *United States v. Hostetter*, 295 F.Supp. 1312 (D.Del.1969); *State v. Anonymous*, 280 A.2d 816 (Conn.Cir.Ct.1971). Similarly, articles on this question in various law review publications recognize the necessity for the scope-limitation principle in providing objectivity in measuring the Fourth Amendment's protections. *See, e.g.*, Case Comment, *Constitutional Law: Fourth Amendment: Marijuana Seized in "Pat-Down" Incident to Traffic Violation Inadmissible in Sub-*

sequent Criminal Prosecution, 57 Minn.L.Rev. 414 (1972); Wills and Caruana, *Criminal Law and Procedure*, Tenth Survey of Florida Law, Part Two, 26 U.Mia.L.Rev. 289, 314 (1972); and Case Comment, *Criminal Law: Personal Searches Incident to Traffic Arrests — No Nexus Necessary?* 25 U.Fla.L.Rev. 289 (1972) in addition to those authorities considered by Judge Wright in n.44 of *United States v. Robinson*, *supra*, 471 F.2d at 1107.

In closing we wish to call the Court's attention to some of the pertinent factual distinctions between the instant case and the situation confronting the police officer in *Robinson*, *supra*. Among other things, it is to be noted here that Mr. Gustafson had experienced no previous encounters with the officer in this case, the offense he was arrested for was benign or trivial in nature—carrying with it no mandatory minimum sentence, the officer was not even required to take Mr. Gustafson into custody, there existed no department policies requiring full scale body searches, the officer expressed no objective indications of fear for his own well being or that of others in dealing with Mr. Gustafson, and there was nothing at all extraordinary about the fact that Mr. Gustafson had a normal cigarette package in his inside coat pocket.[6] We are certain that under these circumstances even the dissenting judges in *Robinson* would agree that the extensive physical intrusion on Mr. Gustafson's person and privacy was violative of the Fourth Amendment.

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[6]In dissenting from the majority in *Robinson*, Judge Wilkey considered police officer Jenks' activities to be reasonable since the frisk revealed the existence of an unusual or irregular cigarette container. 471 F.2d 1082 at 1119, and 1123. Judge Wilkey stated ". . . if the cigarette package had appeared to contain cigarettes on these facts alone in this case, Jenks might have been unjustified in opening the package, his inquiry in this sector would have been satisfactorily resolved . . ." 471 F.2d at 1119.

CONCLUSION

In authorizing a full scale exploratory body search on the basis of mere suspicion or curiosity as being "incident to an arrest" for a trivial traffic infraction, the Florida Supreme Court's decision marks a dramatic departure from established objective considerations of "reasonableness" in applying Fourth Amendment principles.

It is earnestly contended that the decision presented for review must be reversed because:

1. The Fourth Amendment prohibits as unreasonable in purpose and scope the extensive evidentiary search of a person arrested for a minor traffic violation, which offense has no evidence related to it; and,

2. The Fourth Amendment prohibits as unreasonable in purpose and scope the extensive evidence search of a citizen taken into custody for the violation of a minor traffic offense.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished, by mail, to the Honorable Robert Shevin, Attorney General of the State of Florida, the Capitol, Tallahassee, Florida, and to the Honorable Nelson E. Bailey, Esquire, Assistant Attorney General of Florida, 225 Pan-A Building, West Palm Beach, Florida, this ____ day of May, 1973.

_____

Attorney